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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

MEI-FANG LISA ZHANG, BAY AREA  
AFFORDABLE HOUSING, LLC, XUE-  
HUA GAO, YANG-CHUN ZHANG,  
CAROL JIAN DENG, and HAO LIANG,

Plaintiffs,

vs.

WEI-MAN RAYMOND TSE, RUN PING  
ZHOU a.k.a. FLORA ZHOU, THERESA  
WONG, JAMES YU, BILL SHU WAI MA,  
MOLLY LAU, VICTOR SO, JIAN XIAO,  
CHRIST INVESTMENT SERVICE INC.,  
CIS SERVICE, INC., PACIFIC BEST  
GROUP LTD. a.k.a. PACIFIC BEST  
COMPANY LTD., and SOUTH CHINA  
INVESTMENT INC.,

Defendants.

Case No.: C-07-04946 JSW  
(Related to C-05-02641 JSW)

**PLAINTIFFS' RESPONSE TO COURT'S  
APRIL 16, 2008 ORDER RE REQUEST  
FOR ENTRY OF DEFAULT AGAINST  
RUN PING ZHOU**

By order dated April 16, 2008, the Court directed plaintiffs to examine the "Defendant Run Ping Zhou's Separate Case Management Statement" received by the Court from defendant Run Ping Zhou (also known as Flora Zhou) on or about January 11, 2008 and to state whether plaintiffs maintain that entry of default against Ms. Zhou is appropriate.

1 Plaintiffs have examined Ms. Zhou's statement and the applicable law regarding defaults.  
2 Plaintiffs' request for a default against Ms. Zhou was made pursuant to Rule 55(a) of the Federal  
3 Rules of Civil Procedure. This Rule states in pertinent part:

4 When a party against whom a judgment for affirmative relief is sought has failed to plead or  
5 otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the  
6 party's default.

6 Fed.R.Civ.P. 55(a).

7 As this rule suggests, a defendant must file an answer or proper motion, such as a motion  
8 under Rule 12 of the Federal Rules of Civil Procedure, indicating an intent to defend against the  
9 plaintiffs' allegations within prescribed time period following service of summons on the  
10 defendant. A defendant's formal appearance "alone will not prevent entry of default" but does  
11 entitle the appearing defendant to notice of a motion for entry of default judgment. *See William*  
12 *W Schwarzer, A. Wallace Tashima, and James M. Wagstaffe, California Practice Guide:*  
13 *Federal Civil Procedure Before Trial* ¶¶ 6:27-6:29 (Rutter Group: 2008).

14 Defendant Zhou's "Separate Case Management Statement" filed on January 11, 2008  
15 does not constitute a proper Answer or Rule 12 to plaintiffs' complaint. In their Complaint,  
16 Plaintiffs allege that beginning in November 2000 and continuing to at least 2007, they were  
17 victimized by a foreign currency trading scam so brazen that two regulatory enforcement actions,  
18 one by the State of California and the other by the United States Commodities Futures Trading  
19 Commission and the State of California, have been filed in order to stop them. Defendant Zhou  
20 is specifically alleged to have participated in this criminal enterprise even after she was sued and  
21 enjoined by the State of California in the first enforcement action --the Tokyo International Case  
22 that the Department of Corporations filed in December 2000 ---by establishing and managing yet  
23 another entity (South China Investments) to perpetuate the fraud. (Complaint, ¶¶ 11, 23, 24, 52-  
24 57).

25  
26 Against these allegations, Ms. Zhou has filed an untimely pleading with the Court which  
27 states only that she has "quit my job since December 2004" and has not been "involve[d] [in]  
28 any foreign currency future trading business after Dec. 2004." (Separate Case Management

Statement, filed on 1/11/2008, at pg. 2).<sup>1</sup> She also asserts that should not be a defendant in this case because “All my money was frozen by CFTC is gone to CFTC Monitor department after Sep[t]ember 1, 2006 that was settled.” Ms. Zhou thus neither admits nor denies anything about her involvement in the foreign currency scam pleaded in plaintiffs’ complaint during the first four years of its existence, from approximately November 2000 up to December 2004. However, by no later than January 2004, defendants had already begun defrauding plaintiffs. (See Complaint, ¶¶ 78-(plaintiff Mei-Fang Lisa Zhang “invested a total of \$118,990 of her own money” in “numerous investments from January 2004 through November 2006”); Complaint ¶ 85 (plaintiff Bay Area Affordable Housing “invested a total of \$93,500 with South China, Pacific Best and NICI” in “numerous investments from “January 2004 through December 2006”).

Plaintiffs recognize that defendant Zhou is proceeding pro se and that, under the liberal pleading rules of construction applicable to pro se litigants, the Court may construe her untimely “Separate Case Management Statement” as an intention to contest liability that is sufficient to avoid a clerk’s entry of default against her under Rule 55(a). *See* Schwarzer, et al., at ¶ 6:28 (“No default can be entered if defendant has filed a response indicating its intent to defend the action”).

Plaintiffs therefore submit that the Court, at a minimum, should require Defendant Zhou to plead a proper answer to plaintiffs’ Complaint, or file an appropriate Rule 12 motion with respect to the Complaint, within 10 days, and that, if Defendant Zhou fails to submit a proper response to plaintiffs’ Complaint, the Court should enter a default against her.

COOKE, KOBRICK, & WU LLP

Dated: April 25, 2008

By:                     /s/                      
Christopher Cooke  
Attorneys for Plaintiffs

<sup>1</sup> Plaintiffs served Ms. Zhou with the Summons and Complaint on December 6, 2007. Her “Separate Case Management Statement” indicates it was filed on January 11, 2008, which is well past the 20-day deadline for answering or filing a Rule 12 motion.